

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
MCALLEN DIVISION**

UNITED STATES OF AMERICA,

*Plaintiff,*

v.

7.167 ACRES OF LAND, MORE OR LESS,  
SITUATE IN HIDALGO COUNTY,  
STATE OF TEXAS; AND CATHOLIC  
DIOCESE OF BROWNSVILLE, ET. AL.

*Defendants.*

CASE NO. 7:20-CV-417

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**JOINT MOTION FOR A CONTINUANCE OF THE JOINT DISCOVERY/CASE  
MANAGEMENT PLAN AND THE INITIAL PRETRIAL AND SCHEDULING  
CONFERENCE PURSUANT TO FED. R. CIV. P. 26(f)**

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The United States, through the Assistant United States Attorney, John A. Smith, III, and the Diocese of Brownsville, through counsel David Garza, respectfully moves for a continuance of the filing of a Joint Discovery/Case Management Plan and the initial pretrial and scheduling conference scheduled for May 5, 2021.

**BACKGROUND**

The United States commenced this case on December 17, 2020 by filing the Declaration of Taking, which sought to acquire fee simple interest in property identified as RGV-MCS-2217.<sup>1</sup> On January 7, 2021, the United States deposited \$30,099 in the registry of the Court as estimated just compensation. Upon deposit of the estimated just compensation, title to the tract identified as RGV-MCS-2217 vested in the name of the United States by operation of law.<sup>2</sup>

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<sup>1</sup> Dkt. No. 2.

<sup>2</sup> Upon the filing of the Declaration of Taking and depositing the estimated compensation in the Registry of the Court, the following events occur by operation of law: “1 title to the estate or interest specified in the declaration vests in the Government; (2) the land is condemned and taken for the use of the Government; and (3) the right to just compensation for the land vests in the persons entitled to the compensation.” 40 U.S.C. § 3114(b); *see E. Tennessee Nat. Gas. Co.*

REQUEST FOR RELIEF

The United States requests that the Court continue the filing of the Joint Discovery/Case Management Plan and the initial pretrial and scheduling conference as it will not prejudice any party of this case. Rather, the United States believes the continuance sought herein will preserve judicial and party resources based on the following reasons:

1. This is a federal land condemnation action seeking to acquire property in order “to construct, install, operate, and maintain roads, fencing, vehicle barriers, security lighting, cameras, sensors, and related structures designed to help secure the United States/Mexico border within the State of Texas.”<sup>3</sup>
2. On January 20, 2021, President Joseph R. Biden, Jr. issued a Presidential Proclamation, terminating the national emergency at the Southern Border Wall and directing “a careful review of all resources appropriated or redirected to construct a southern border wall” through the development of “a plan for the redirection of funds concerning the southern border wall.”<sup>4</sup>
3. The plan for the redirection of funds concerning the southern border wall was expected to be developed within 60 days from the date of the proclamation, but as of this date no guidance has been forthcoming.<sup>5</sup>
4. This property has not had any construction started and the Diocese of Brownsville is interested in revestment of the property should that be an option once guidance is given.

Based on the foregoing, the United States and the Diocese of Brownsville request that the Court grant this motion and enter an order continuing the filing of the Joint Discovery/Case Management Plan and the initial pretrial and scheduling conference for at least 30 days.

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v. *Sage*, 361 F.3d 808, 825 (4th Cir. 2004) (in a Declaration of Taking Act case, “[t]itle and the right to possession vest in the government immediately upon the filing of a declaration and the requisite deposit.”).

<sup>3</sup> Dkt. No. 2, Schedule B.

<sup>4</sup> Proclamation No. 10142, 86 Fed. Reg. 7225 (Jan. 20, 2021).

<sup>5</sup> *Id.*

**CERTIFICATE OF CONFERENCE**

On April 26, 2021, the AUSA John Smith contacted Attorney David C. Garza, counsel for the Catholic Diocese of Brownsville, who advised they join in the instant motion.

Respectfully submitted,

**RYAN K. PATRICK**  
United States Attorney  
Southern District of Texas

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**FOR DEFENDANT:**

**ROMAN CATHOLIC DIOCESE OF  
BROWNSVILLE**

*s/David C. Garza*  
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**CERTIFICATE OF SERVICE**

I, John A. Smith, III, Assistant United States Attorney for the Southern District of Texas, do hereby certify that on April 30, 2021, I served the foregoing using the Court's ECF notification system on all parties in this case.

*s/ John A. Smith, III*  
JOHN A. SMITH, III  
Assistant United States Attorney